

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
 Ruey YU et al..) Examiner: ROYDS, L. A.
)
Application No.: 10/792,273) Group Art Unit: 1614
)
Filed: March 4, 2004) Conf. No. 4235
)
For: Bioavailability and improved delivery of alkaline pharmaceutical drugs

RESPONSE TO OFFICE COMMUNICATION REGARDING
ELECTION OF SPECIES REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Communication dated December 14, 2006,
applicants reply as follows.

The Office Communication refers to applicants' response filed November 27, 2006, which was filed in response to an original restriction/election of species requirement dated October 25, 2006. The Communication notes applicants' cancellation of claim 30, but states that applicants must still elect a single disclosed alkaline pharmaceutical drug species. The Action dated October 25, 2006, communicated on pages 6-9, an election of species requirement, which required applicants to elect a single alkaline pharmaceutical drug species for examination.

Applicants hereby elect, with traverse, the species terbinafine, which was recited in original claim 30. Applicants traverse this election of species requirement since the Action has failed to provide any rationale as to how or why the respective species are patentably distinct. While the claims may encompass a large number of compounds, these compounds all share a common feature, they are alkaline, and it is that feature that contributes to the formation of a molecular complex with a hydroxyacid, polyhydroxy acid, related acid, or lactone.